



HAROLD BAER
U.S. DISTRICT JUDGE
S. D. N.Y.

MICHAEL A. CARDOZO
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
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May 16, 2007

Via Facsimile (212) 805-7901
The Honorable Harold Baer, Jr.
United States District Judge
United States Courthouse
500 Pearl Street, Room 2230
New York, New York 10007

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| USDS SDNY |
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| ELECTRONICALLY FILED |
| DOC #: |
| DATE FILED: 5/25/07 |

Re: Pritchett v. City of New York et al.
07 CV 3169 (HB)(GWG)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendant City. Plaintiff has filed the above-referenced complaint, wherein he alleges, *inter alia*, that on July 29, 2006 he was falsely arrested and detained by New York City police officers. Plaintiff further asserts an excessive force claim. Defendant City respectfully requests an extension of the time to answer or otherwise respond to the complaint from its current due date of May 15, 2007 to July 13, 2007; it is further requested that the initial pre-trial conference be adjourned from June 28, 2007 at 3:45 p.m. to July 16, 2007, or any date that accommodates the Court's schedule. Plaintiff's attorney, Michael B. Lumer, Esq., has consented to both requests.

Defendant has several reasons for seeking an enlargement of time. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, the City requires additional time to investigate plaintiff's allegations. With respect to the false arrest charges, it is our understanding that records pertaining to the underlying criminal action, including police records, may have been sealed pursuant to New York Criminal Procedure Law § 160.50.

Additionally, plaintiff alleges that he sustained both physical and emotional injuries. Therefore, this office is in the process of forwarding to plaintiff for execution a consent and authorization for the release of pertinent sealed records, as well as medical authorizations to obtain records pertaining to plaintiff's purported injuries. The enlargement of time will enable the City to properly assess the case and respond to the complaint.

Moreover, upon a review of the docket sheet, we have determined that the six individually-named defendants, purportedly a New York City Police Department captain and five police officers, have not been served. Thus, the requested extension will enable plaintiff to complete service of process. Once service is effected, the City will have additional time to determine, pursuant to Section 50-k of the New York General Municipal Law, and based on a review of the facts of the case, whether we may represent the individual defendant. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

No previous request for an enlargement of time, or an adjournment of the initial pre-trial conference has been made. Accordingly, we respectfully request that defendant City's time to answer or otherwise respond to the complaint be extended to July 13, 2007, and that the conference be adjourned from June 28, 2007 to July 16, 2007, or any date thereafter that accommodate Your Honor's schedule.

Thank you for your consideration in this matter.

Respectfully submitted,

Joyce Campbell Priv  terre
 Joyce Campbell Priv  terre (JCP 1846)
 Assistant Corporation Counsel

cc: **Via Facsimile (718) 643-9297**

Michael B. Lumer, Esq.
 Reibman & Weiner
 Attorneys for Plaintiff
 26 Court Street, Suite 1005
 Brooklyn, New York 11242

*Granted on consent
 will serial at PTC on
 7/16/07 and answer will be
 served + filed by 7/13/07*

SO ORDERED:

Harold Baer, Jr.
 Harold Baer, Jr., U.S.D.J.

Date: 5/24/07

Endorsement:

Granted on consent will see all at PTC on July 16, 2007 and answer etc. will be served and filed by July 13, 2007.